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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,348	03/26/2004	Manfred Gilbert	LEAP:136US	1567

7590 09/29/2006

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EXAMINER
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NGUYEN, THONG Q

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/811,348

Applicant(s)

GILBERT ET AL.

Examiner

Thong Q. Nguyen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006 and 30 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/27/2006 has been entered.

### ***Response to Amendment***

2. The present Office action is made in response to the amendment filed on 4/27/06 and 6/30/06.

It is noted that in the amendment of 4/27/06, applicant has canceled claims 1-8, amended claims 9-10, 12-15 and 20 and added claims 21-27. In the amendment filed on 6/30/06 which is filed in response to the Notice of non-compliance, applicant has filed a list of claims in which applicant has made correction to the status indicator of claim 11 and also further amended claim 20.

### ***Claim Objections***

3. Claims 15-19 are objected to because of the following informalities. Appropriate correction is required.

a) In claim 15: the feature thereof "said curved microscope arm" (line 5) lacks a proper antecedent basis. Applicant should note that the base claim recites an

arcuate microscope arm, see claim 1, line 2. Should the term "curved" 9claim 15, line 5) be changed to --arcuate--?

b) The remaining claims are dependent upon the objected base claim and thus inherit the deficiency thereof.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) Claim 15 is rejected under 35 USC 112, second paragraph for the following reasons. First, it is unclear about the structural relationship between the fixed recessed portion formed on the interior surface of the arcuate microscope arm and the removal panel formed on the interior surface of the arcuate microscope arm. Second, it is unclear what surface of the recessed portion is used to grip the microscope. Applicant is respectfully invited to review the feature related to the recessed portion of the interior surface of the microscope arm which recessed portion has a surface for gripping the microscope as recited on last two lines of base claim 9, and the feature related to the recessed portion of the removal panel which recessed portion extends from the interior surface of the microscope arm and has a surface for gripping the microscope as recited on claim 15, lines 3-7. Applicant should note that if the removal panel is formed on the recessed

portion of the microscope arm then the surface of the recessed portion of the removal panel, not the surface of the recessed portion of the microscope arm, is used to grip the microscope.

b) The remaining claims are dependent upon the rejected base claim and thus inherit the deficiency thereof.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 9-12, 14, 20-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadhurst et al (U.S. Patent No. 1,996,141, of record) in view of DiResta (U.S. Patent No. 5,844,714, of record) and Ampel (U.S. Patent No. 5,556,150).

Broadhurst et al disclose a microscope. The microscope as described in column 3 and shown in figure 1 comprises the following features: An arcuate microscope arm for supporting an observation system (5) and a stage (1). The observation comprises a revolver supporting a plurality of objective lenses (6) and an ocular (7). The arcuate arm has an interior surface facing the observation system and an exterior surface facing the viewer wherein each of the interior and exterior surface has a curved configuration. See figure 1. The interior surface defines an opening with respect to the observation system and the stage so that a user can utilize that opening for holding the microscope and then for transporting the microscope. It is noted that Broadhurst et al do not disclose that the interior

surface of the arcuate microscope arm has at least one fixed recess portion having a surface for the purpose of gripping the microscope.

The use of an arcuate microscope arm supporting an observation system and a stage wherein the interior surface of the arcuate microscope has at least one recesses for the purpose of gripping the microscope is known to one skilled in the art as can be seen in the microscope provided by DiResta. In column 2 and shown in figures 1-2, DiResta discloses a microscope (10) having an arcuate microscope arm (18), see also abstract, for supporting a lens assembly (12) on one end and a supporting mechanism (66) on other end for mounting on a microscope base (26). The arcuate microscope arm (18) has an interior surface facing the stage (30) and an exterior surface facing a viewer wherein the interior surface comprises a main contoured portion (22) having a plurality of fixed individual finger grip recesses (24) for the purpose of facilitation the holding of the microscope. See column 2, lines 9-13. While DiResta does not clearly state that each of individual finger grip recesses of the contoured portion has an arcuate shape and extends from the interior surface of the arm to an inner recess surface of the arm as claimed; however, such feature is known and also disclosed in the art as can be seen in the device provided by Ampel. In particular, in column 2 and shown in figures 1-2, Ampel discloses a device having handgrips and teaches that the surface of each handgrip comprises a contour portion (111, 121) having a plurality of individual finger grip recesses (112, 122). Each of grip recesses has an arcuate shape and extends from the interior surface of the arm

to an inner recess surface of the arm. It is noted that each of finger grip recesses as shown in figs. 1-2 comprises at least one wall having an arcuate configuration extending from the interior surface of the arm to the inner recess surface of the arm. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the microscope provided by Broadhurst et al by formation a contour portion having a plurality of arcuate finger recesses on the interior surface of the arcuate microscope arm as suggested by DiResta and Ampel for the purpose of facilitation the holding of the microscope and increasing the force of the user's hand/fingers on the microscope arm during a transportation of the microscope from one location to other location.

8. Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadhurst et al in view of DiResta and Ampel as applied to claims 9 and 20 above, and further in view of Stevens (U.S. Patent No. 5,406,731, of record).

The microscope with the interior surface defined an inner recessed section as provided by Broadhurst et al, DiResta and Ampel does not state that the inner recessed section comprises a textured surface for the purpose of increasing the static coefficient of friction. However, it is known to one skilled in the art to use a surface having a textured surface for such mentioned purpose. One use of a textured surface on a surface used to grip by a user's hand is disclosed in the apparatus provided by Stevens. See column 4, lines 45-65. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the microscope provided by Broadhurst et al, DiResta and Ampel by using

a textured surface on a surface using to grip by a user's hand as suggested by Stevens for the purpose of increasing the coefficient of friction between the user's hand and the recessed section of the interior surface of the stand when the user grips the microscope.

***Response to Arguments***

9. Applicant's arguments with respect to claims 9-20, now applied to claims 9-27, have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

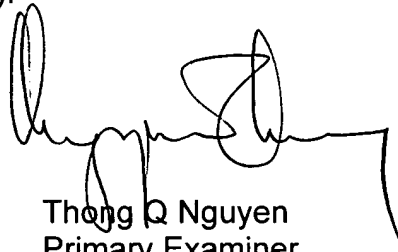
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Thong Q. Nguyen', with a stylized, looping flourish at the end.

Thong Q. Nguyen  
Primary Examiner  
Art Unit 2872

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